

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GOVINO, LLC,

Plaintiff,

v.

WHITEPOLES LLC, et al.,

Defendants.

Case No. [16-cv-06981-JSW](#)

**ORDER ADOPTING REPORT AND
RECOMMENDATION TO GRANT
PLAINTIFF'S MOTION FOR DEFAULT
JUDGMENT**

Re: Dkt. Nos. 27, 46

Now before the Court for consideration is the Report and Recommendation issued by Magistrate Judge Kandis A. Westmore, in which Judge Westmore recommends the Court grant Plaintiff's motion for default judgment. The time for filing objections has passed, and the Court has not received any objections. The Court finds the Report thorough and well-reasoned, and the Court ADOPTS it in every respect.

Accordingly, the Court GRANTS Plaintiff's motion for default judgment as follows:

1. Judgment is entered in favor of Plaintiff govino on govino's claims for direct and contributory patent infringement under 35 U.S.C. § 271; Federal trade dress infringement under 15 U.S.C. § 1125(a), trademark dilution under 15 U.S.C. § 1125(c), unfair competition and false designation of origin under 15 U.S.C. § 1125(a), Cal. Bus. & Prof. Code § 17200 *et seq.*, and California common law; Federal false and misleading advertising under 15 U.S.C. § 1125(a), and unfair competition under 15 U.S.C. § 1125(a), Cal. Bus. & Prof. Code § 17200 *et seq.*, and California common law.

2. Defendants shall take nothing.

3. Defendants and their officers, agents, servants, employees, attorneys, successors, assigns, and those in active concert or participation with them who receive actual notice of this

Order by personal service or otherwise, are hereby permanently enjoined and restrained from directly or indirectly infringing govino's U.S. Patent No. D577,547 ("the '547 Patent") in violation of 35 U.S.C. § 271 by making, using, selling, offering for sale and/or importing products which are covered by the claim of the '547 Patent, including but not limited to Defendants "Neel", "Claire", and "Zelenka" product lines identified under SKU# VIN-N19-1; SKU# VIN-C19-1; SKU# VIN-Z19-1; SKU# VIN-N23-1; SKU# VIN-C23-1; and SKU# VIN-Z23-1 ("Patent Infringing Glasses"), or any product that is a variation thereof, during the term of the '547 Patent.

4. Defendants and their officers, agents, servants, employees, attorneys, successors, assigns, and those in active concert or participation with them who receive actual notice of this order by personal service or otherwise, are hereby permanently enjoined and restrained from infringing the govino Trade Dress in violation of 15 U.S.C. § 1125(a) by developing, manufacturing, importing, advertising, and/or selling products that use trade dress that is confusingly similar to the govino Trade Dress, including but not limited to Defendants' "Neel", "Claire", and "Zelenka" product lines identified under SKU# VIN-N19-1; SKU# VIN-C19-1; SKU# VIN-Z19-1; SKU# VIN-N23-1; SKU# VIN-C23-1; SKU# VIN-Z23-1; SKU# VIN-N13-1; SKU# VIN-C13-1; SKU# VIN-Z13-1; SKU# VIN-N20-1; SKU# VIN-C20-1; and SKU# VIN-Z20-1 ("TD Glasses"), and any product that is a variation thereof.

5. Defendants shall pay govino their total profits for sales of Patent Infringing Glasses pursuant to 35 U.S.C. § 289 and TD Glasses pursuant to 15 U.S.C. § 1117 in an amount of \$592,700.00.

6. Defendants shall pay govino their attorney's fees in the amount of \$ 37,744.00.

7. Defendants shall pay govino their costs in the amount of \$935.67.

8. After this Order and the separate Judgment have been entered by the Court, govino shall promptly serve a copy of them on Defendants, and govino shall file with the Court a proof of service thereof within 15 days thereafter.

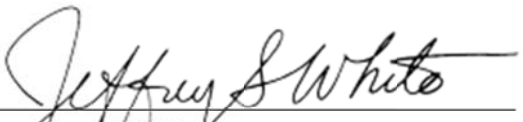
9. The Court shall retain jurisdiction over this matter for the purpose of making any further orders necessary or proper for the construction of this Order and the separate judgment, the enforcement thereof, and the punishment of any violations thereof.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Court shall enter a separate judgment and the Clerk shall close the file.

IT IS SO ORDERED.

Dated: December 11, 2017



JEFFREY S. WHITE
United States District Judge